

REMARKS

Favorable and prompt allowance of the pending claims in the application is respectfully requested on the basis of the following particulars.

1. Interview summary

The applicants are appreciative of the courtesy extended by the examiner and her supervisor in granting an interview to discuss the current rejection of the claims and proposed amendments to the pending independent claims.

At the interview, it was agreed by the examiners that the current amendments to the claims distinguish the pending independent claims over U.S. patent 6,106,492 (*Darcy*), whether considered individually or collectively with U.S. patents 5,755,678 (*Parker*) and 6,139,513 (*Grim*). In particular, it was pointed out that the now specifically-recited primary tacking arrangement of claims 6 and 25 comprises a strip defined as either a non-woven material or a stretchable strip having hook type patches secured on opposed end portions. The strip is further defined as being adapted to receive hook type patches.

It was pointed out at the interview that the limitation of the strip being a non-woven material is an important limitation since it was shown at the interview that a non-woven material may be a hook-receivable material, and that it may also be rather elastic and lightweight. It was considered that such an advantage would be readily understood by one skilled in the art.

Turning to claim 40, it was agreed that the limitation of a second side of the casting blank having a hook receivable material in combination with a primary tacking arrangement having a strip and hook patches located at opposed end portions of the strip is distinguishable over *Darcy*, either considered individually or collectively with *Parker* and *Grim*.

A sample splint in accordance with the claims of the pending application was demonstrated to the examiners at the interview. It was shown how the primary

tacking arrangement is merely a temporary strap that holds the casting or orthopedic blank. The temporary strap of the sample is of course constructed from a hook-receivable non-woven material having hook type patches at opposed end portions. By having hook type patches at opposed end portions, it was shown how the temporary strap can be secured to itself or to the casting blank. Due to the inherently weak nature of the temporary strap of the sample, it was shown that it could not be used to hold the casting blank on a wearer's anatomy for any sustained period of time, as in the strap of *Darcy*. Instead, a secondary holding arrangement, such as an elastic bandage must be used.

2. In the claims

The claims are amended as shown in the "Amendment to the Claims." Throughout the claims, the limitation "primary tacking arrangement" is now recited in the singular in view of the open-ended nature of this claim from the use of "comprising" in the preamble of the independent pending claims. This is not considered a narrowing amendment and was not made in response to any rejection of the claims by the examiner.

Turning first to claim 6, this claim is amended to recite that the primary tacking arrangement includes a strip of non-woven material having end portions with hook type patches secured thereon. The primary tacking arrangement is defined as being removable and repositionable at a plurality of locations with respect to the splint or support. Support for this amendment is found in originally-filed claims 17 and 18, Fig. 3, and its corresponding description in the specification.

Next, regarding claim 25, this claim is amended to recite that the blank has a covering formed of a hook receivable material, and that the primary tacking arrangement includes a stretchable strip of hook receivable material having hook type patches located at opposed ends of the strip. Again, like claim 6, the primary tacking arrangement is defined as being removable and repositionable at a plurality of locations with respect to the splint or support. Support for this amendment is found in

originally-filed claims 18 and 19, and Fig. 3 and its corresponding description in the specification.

Lastly, claim 40 is amended to recite that the first side of the blank is covered with a padding material, and a second side of the blank is covered with a hook receivable material. As with claims 6 and 25, the primary tacking arrangement is defined as including a strip having hook type material located at opposed end portions, and that the primary tacking arrangement is defined as being removable and repositionable at a plurality of locations with respect to the splint or support. Support for this amendment is found in the originally-filed claims 18 and 42, and Fig. 3 and its corresponding description in the specification.

3. Rejection of claims 6-9, 14, 18, 20, 21, 25 and 26 under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 6,106,492 (*Darcey*)

This rejection is respectfully traversed in view of the amendment to independent claims 6 and 25. The remaining claims cited in this rejection are dependent from one of such independent claims.

As specified above in the summary of the interview and the amendment to the claims, it is clear that *Darcey* fails to disclose or suggest the following features commonly recited by amended claims 6 and 25:

- (1) A primary tracking arrangement comprising a strip of non-woven or elastic material.
- (2) A strip that is hook receivable having opposed end portions with hook type patches secured thereon.
- (3) Primary tacking arrangement that is removable and repositionable at a plurality of locations with respect to a splint.

First, it is readily apparent that *Darcey* discloses hand and wrist straps (26) that are particularly described as being a “woven or knitted material” (col. 7, lines 5-16). Nowhere is there any mention in *Darcey* that that the straps (26) may be a non-

woven material. The advantages of using a non-woven material are discussed above in reference to the interview.

There is also no mention that the straps (26) are “elastic” as recited by claim 25. It will be pointed out that *Darcey* explains that the straps (26) may be loosened or tightened to correct tightness, and from such a passage it appears that the straps (26) are not elastic so as to compensate for tightness.

Next, in observing Fig. 8 of *Darcey*, it is taught that the straps (26) must have a D-ring (30) providing at one end of the strap (col. 7, lines 9-14). The D-ring (30) is provided so as to permit the straps (26) to be tensioned about the splint (14) and the anatomy of the splint wearer.

Obviously, there is no construction in *Darcey* of a strap having opposed ends with hook type patches. Indeed, it would make no sense from the teachings of *Darcey* to provide a strap having opposed ends with hook type patches since one would not be able to firmly tighten the strap against the splint and the anatomy of the wearer.

It will be noted that *Darcey* teaches providing loops (17, 18, 19) on a side of the splint and for good reason; the loops are provided for positioning the straps (26) on the splint to prevent migration of the straps (26) and to retain separate splints (14) in alignment with one another, as discussed below. Since the straps (26) are the only means provided to secure the splint (14) onto the splint wearer's anatomy, it is important that the straps (26) pass through the loops. The D-rings (30) of the straps (26) are also necessary in conjunction with the loops (17, 18, 19) since they combine to assist the wearer to firmly position the straps (26) relative to the respective straps (26) at a certain location.

While *Darcey* teaches the use of an elastic bandage (34) to secure the splint to the wearer's anatomy, such elastic bandage (34) does not possess the hook type patches at opposed end portions that are required by claims 6 and 25. In other words, Figs. 11 and 12 show the elastic bandage (34) as being secured to the splint with clips

(unnumbered) without any indication of using an alternative means for securing to the splint.

Lastly, *Darcey* does not disclose or suggest the straps (26) as being arranged to be removable and repositionable at a plurality of locations with respect to the splint. As briefly intimated above in relation to the loops (17, 18, 19), *Darcey* teaches that the straps (26) pass through the loops (17, 18, 19) which are provided at predetermined locations along the individual volar and dorsal aspects of the splint (14). Because there are two aspects of the splint, it is necessary to provide the loops (17, 18, 19) on both aspects of the splint so as to align both respective aspects of the splint with one another on the wearer's anatomy (col. 7, lines 18-29; please refer to Figs. 11, 12 which shows two individual splints corresponding to the volar and dorsal aspects of the wearer's hand).

It is submitted that it is necessary to provide the loops (17, 18, 19) in *Darcey* so as to provide proper alignment of the volar and dorsal splints on the wearer's anatomy. If the one skilled in the art were to remove the loops (17, 18, 19), one must hope that there is sufficiently enough strong force applied by the straps (26) to the splint aspects, and friction between the strap and the splint to maintain both splints in proper alignment with one another. However, such sufficient strong force may be harmful to the already injured wearer's anatomy, and is therefore undesirable.

It will be pointed out that *Darcey* shows and teaches that the straps have variable widths depending on where they are positioned on the splint (Figs. 9 and 10; col. 7, lines 14-16). As a result, some loops may be sized larger than others according to where the straps (26) are placed on the splint. It follows that some straps (26) may not be able to be fed through certain loops (17, 18, 19), and are thus constrained to being used with only one loop at one location on the splint.

As such, one skilled in the art would not be motivated to remove the loops (17, 18, 19) and use thereof with the straps (26) from the splint of *Darcey* since there is

clearly no motivation from the teachings of *Darcey*, and doing so could seriously harm the already injured anatomy as a result of strongly tightened straps.

In contrast, the primary tacking arrangements of claims 6 and 25 are required to be removable and repositionable at a plurality of locations. Of course, *Darcey* does not permit the straps (26) to be repositionable at a plurality of locations since they are restricted to only passing through the loops, and the straps are sized according to where they are positioned on the splint with correspondingly sized loops.

For these foregoing reasons, every feature required by each of amended claims 6 and 25 is not anticipated by *Darcey*. Accordingly, these claims and the claims dependent therefrom are patentable. Withdrawal of the rejection of these claims is respectfully requested.

4. Rejection of claims 19, 40-42, 44 and 46 under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 6,106,492 (*Darcey*) in view of U.S. patent 5,755,678 (*Parker*)

In view of the observations discussed above in reference to claim 6, claim 19 is patentable over the combination of *Darcey* and *Parker* due to its dependency from claim 6 and its individually recited features.

Turning to the rejection of claim 40, from which claims 41, 42, 44 and 46 depend, it is submitted that the combination of *Darcey* and *Parker* fails to establish a *prima facie* case of obviousness of amended claim 40. Specifically, the combination of *Darcey* and *Parker* fails to disclose or suggest the following features of amended claim 40:

- (1) A strip that is hook receivable having opposed end portions with hook type patches secured thereon.
- (2) Primary tacking arrangement that is removable and repositionable at a plurality of locations with respect to a splint.

The observations regarding claims 6 and 25 and their distinction over *Darcey* apply equally to claim 40.

It is submitted that nowhere in *Parker* is there any suggestion of providing a splint having the above-identified features of amended claim 40. As such, one skilled in the art would not be motivated in view of the teachings of *Darcey* and *Parker* to make a splint or support having all of the features required by claim 40. Therefore, amended claim 40 is not *prima facie* obvious over the combination of *Darcey* and *Parker*.

Withdrawal of the rejection of claim 40 and the claims dependent thereon is respectfully requested.

5. Other prior art rejections

The remaining rejections of the claims are related to dependent claims dependent from one of amended independent claims 6, 25 and 40. The patentability of these claims is contingent on the patentability of claims 6, 25 and 40. Thus, no further discussion is considered necessary regarding specific features of the dependent claims. Withdrawal of the rejection of these dependent claims is respectfully requested.

6. Conclusion

As a result of the amendment to the claims, and further in view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that every pending claim in the present application be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the applicants' attorney, the examiner is invited to contact the undersigned at the numbers shown below.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Justin J. Cassell", written over a horizontal line.

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